

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NEW LIFE HOMECARE, INC., et al.,

Plaintiffs,

v.

BLUE CROSS OF NORTHERN
PENNSYLVANIA, et al.

Defendants.

NO. 3:06-CV-2485

(JUDGE CAPUTO)

MEMORANDUM ORDER

Presently before the Court is Plaintiffs' Motion to Stay Proceedings Pending Discovery. (Doc. 129.) The Motion will be granted, and the proceedings will be stayed for sixty (60) days.

Under F.R.Civ. P. 56(f):

If a party opposing the motion shows by affidavit that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) deny the motion;

(2) order a continuance to enable affidavits to be obtained, depositions to be taken, or other discovery to be taken;

Whether such a motion is granted depends on "what particular information is sought; how, if uncovered, it would preclude summary judgment; and why it has not previously been obtained." *Dowling v. City of Phila.*, 855 F. 2d 136, 140 (3d Cir. 1988). Furthermore, "[a] district court has discretion in acting on Rule 56(f) motions." *Contractors Ass'n of E. Pa., Inc. v. City of Phila.*, 945 F. 2d 1260, 1267 (3d Cir. 1991).

Plaintiffs' have moved to stay proceedings pending further discovery, citing the need to acquire documents central to their litigation, including the 2007 Group Plan health insurance contract and the 2007 underwriting requirements. (Br. in Supp. 3). Plaintiffs have also submitted an Affidavit, further stating that these documents are solely in Defendants' possession and have not yet been turned over. (Pl. Ex. D.) Since these documents are represented by Plaintiffs to be critical to determining the outcome of the instant suit, Plaintiffs' Motion to Stay Proceedings Pending Discovery will be granted for sixty days.

NOW, this 20th day of September, 2010, **IT IS HEREBY ORDERED:**

(1) Plaintiffs' Motion to Stay Proceedings Pending Discovery is **GRANTED**.

(2) Proceedings in the above captioned matter are stayed for **sixty (60) days**, within which period Plaintiffs shall secure and submit the evidence which Plaintiffs represent is necessary to decision here.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge